

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KITRICH AARON POWELL,

Case No. 3:21-cv-00111-MMD-WGC

Petitioner,

v.

ORDER

WILLIAM GITTERE, *et al.*,

Respondents.

Petitioner, a Nevada prisoner, has submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (ECF No. 1.) He has not, however, filed an application to proceed *in forma pauperis* or paid the filing fee. Accordingly, this matter has not been properly commenced. See 28 U.S.C. § 1915(a)(2); LSR 1-1, 1-2. In addition, the Court notes that Petitioner, represented by appointed counsel, currently has a pending habeas proceeding (2:06-cv-01264-KJD-DJA) challenging the same conviction and sentence. Thus, this action will be dismissed without prejudice.

It is therefore ordered that this action is dismissed without prejudice. The Clerk of Court is directed to enter judgment accordingly and close this case.

It is further ordered that a certificate of appealability is denied, as jurists of reason would not find the Court's dismissal of this improperly commenced action without prejudice to be debatable or incorrect.

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1 The Clerk of Court is further directed to send Petitioner a copy of the papers that
2 he submitted in this action.

3 DATED THIS 8th Day of March 2021.

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6 MIRANDA M. DU
7 CHIEF UNITED STATES DISTRICT JUDGE
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